IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

THURSDAY, THE 13TH DECEMBER 2007 / 22ND AGRAHAYANA 1929

LA.App..No. 180 of 2002() & CROSS OBJECTION

LAR.51/1999 of PRL.SUB COURT, KOZHIKODE
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APPELLANT: RESPONDENT

STATE OF KERALA.

BY GOVT.PLEADER SRI.K.V.MANOJKUMAR.

RESPONDENTS: CLAIMANT
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1. KUTTIPPURATH MOHANDAS ,
S/O.K.P.KANARAKUTTY,KARUVISSERI,KOZHIKODE,POWER OF ATTORNEY HOLDER ON BEHALF OF KUTTIPPURATH KANARAKUTTY,KARUVASSERI.

ADDL.RESPONDENTS IMPLEADED :

2.KUTTIPURATH MOHANDAS, S/O.K.P.KANARAKUTTY, KARUVISSERI, KOZHIKODE.

3.SARADA, W/O.KUTTIPURATH KANARAKUTTY, KARUVISSERI, KOZHIKODE.

4.K.VASUDEVAN, S/O.K.P. KANARAKUTTY, KARUVISSERI, KOZHIKODE.

5.K.KRISHNADAS, S/O.K.P. KANARAKUTTY, KARUVISSERI, KOZHIKODE.

6.SUJATHA, D/O.K.P. KANARAKUTTY, KARUVISSERI, KOZHIKODE.

7.K.SUNITHA, D/O.K.P. KANARAKUTTY, KARUVISSERI, KOZHIKODE.

8.MINI, D/O.K.P. KANARAKUTTY, KARUVISSERI, KOZHIKODE. (IMPLEADED AS PER ORDER DT. 2.12.2002 IN CMP 6110/02)

BY ADV. SRI.P.V.KUNHIKRISHNAN

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 13/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

L.A.A.No.180 of 2002 & Cross Objection

Dated 13th December, 2007.

J U D G M E N T

Kurian Joseph, J.

This is an appeal filed by the State aggrieved by the fixation of land value in the matter of acquisition of property for the purpose of National Highway bye pass situated in Vengeri Village, Kozhikode Taluk. The reference court relied on the judgment in LAR 499/97. That was subject matter of LAA 519/01, which was remanded by this court. Learned Government Pleader submits that after the remand, the reference court has fixed the land value at the rate of Rs.25,000/- per cent. In the judgment under appeal, the value fixed is at the rate of Rs.30,000/- per cent. Learned counsel for the Cross Objector/claimants submits that they may be given an opportunity before the reference court, since no other contentions were taken by them in this appeal. Learned Government Pleader submits that one of the contentions taken by the Cross Objectors is based on LAR 461/97. Learned Government Pleader further points out that this court has sustained the land value at the rate of Rs.25,000/- per cent in LAA 694/01. Learned counsel for the Cross Objectors submits

that there are other evidences available. Since the claimants in those cases in the earlier round had an opportunity before the reference court, we are of the view that it is only just and proper that the claimants in this case also are granted such an opportunity. Needless to say that the developments as referred to in this judgment will also be looked into by the reference court while answering the reference. Accordingly, we set aside the judgment in LAR No.51 of 1999, under appeal and remit the matter to the reference court for fresh consideration. It will be open to the parties to adduce fresh evidence. The parties shall appear before the reference court on 14.1.2008. The reference shall be answered within another four months. In view of the remand as above, the Cross Objectors shall be entitled to refund of the court fee.

KURIAN JOSEPH, JUDGE.

HARUN-UL-RASHID, JUDGE.

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KURIAN JOSEPH &

HARUN-UL-RASHID, JJ

L.A.A. NO.180 OF 2002
&
Cross Objection

J U D G M E N T

Dated 13th December, 2007.